

110TH CONGRESS
1ST SESSION

S. 695

To amend the International Claims Settlement Act of 1949 to allow for certain claims of nationals of the United States against Turkey, and for other purposes.

IN THE SENATE OF THE UNITED STATES

FEBRUARY 27, 2007

Ms. SNOWE (for herself and Mr. MENENDEZ) introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To amend the International Claims Settlement Act of 1949 to allow for certain claims of nationals of the United States against Turkey, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “American-Owned Prop-
5 erty in Occupied Cyprus Claims Act”.

6 **SEC. 2. INTERNATIONAL CLAIMS SETTLEMENT ACT.**

7 The International Claims Settlement Act of 1949 (22
8 U.S.C. 1621 et seq.) is amended by adding at the end
9 the following new title:

1 **“TITLE VIII—CLAIMS AGAINST**
2 **TURKEY**

3 **“SEC. 801. PURPOSE.**

4 “The purpose of this title is to provide for the deter-
5 mination of the validity and amounts of claims against
6 Turkey that arise out of the continued exclusion of nation-
7 als of the United States from property such nationals own
8 that is located in those portions of the territory of Cyprus
9 that Turkey occupies. This title may not be construed as
10 authorizing or as any intention to authorize an appropria-
11 tion by the United States for the purpose of paying such
12 claims.

13 **“SEC. 802. DEFINITIONS.**

14 “In this title:

15 “(1) CLAIMANT.—The term ‘claimant’ means
16 any national of the United States who files a claim
17 under this title.

18 “(2) CLAIMS FUND.—The term ‘Claims Fund’
19 means the claims fund described in section 808(a).

20 “(3) COMMISSION.—The term ‘Commission’
21 means the Foreign Claims Settlement Commission
22 of the United States.

23 “(4) CYPRUS.—The term ‘Cyprus’ means the
24 Republic of Cyprus.

1 “(5) NATIONAL OF THE UNITED STATES.—The
2 term ‘national of the United States’ means—

3 “(A) a natural person who is a citizen of
4 the United States; and

5 “(B) a corporation or other legal entity
6 that is organized under the laws of the United
7 States or of any State, the District of Colum-
8 bia, or the Commonwealth of Puerto Rico, if
9 natural persons who are citizens of the United
10 States own, directly or indirectly, 50 percent or
11 more of the outstanding capital stock or other
12 beneficial interest of such corporation or entity.

13 “(6) PROPERTY.—The term ‘property’ means
14 any real property, or any right or interest in real
15 property, including any lease to which a national of
16 the United States holds title under the laws of Cy-
17 prus, located in those portions of the territory of Cy-
18 prus that are occupied by Turkey.

19 “(7) TURKEY.—The term ‘Turkey’ means—

20 “(A) the Republic of Turkey;

21 “(B) any agent of the Government of Tur-
22 key, or any unincorporated association that
23 purports to discharge any function of a nation-
24 state under the auspices of the Government of
25 Turkey, including the unincorporated associa-

1 tion known as the ‘Turkish Republic of North-
2 ern Cyprus’;

3 “(C) any political subdivision, agency, or
4 instrumentality of Turkey, including the Turk-
5 ish Armed Forces; and

6 “(D) any organization that purports to be
7 a political subdivision, agency, or instrumen-
8 tality of the unincorporated association known
9 as the ‘Turkish Republic of Northern Cyprus’.

10 **“SEC. 803. COMMENCEMENT OF NEGOTIATIONS BY THE**
11 **SECRETARY OF STATE.**

12 “(a) IN GENERAL.—The President is urged to au-
13 thorize the Secretary of State to commence negotiations
14 with Turkey to reach an agreement with respect to the
15 payment by Turkey of claims certified under section 806
16 and to continue such negotiations until such agreement
17 is reached.

18 “(b) REQUIREMENT TO RECEIVE CLAIMS.—The
19 Commission shall receive claims, determine the validity of
20 claims, and make awards under section 804 as of the ef-
21 fective date of the American-Owned Property in Occupied
22 Cyprus Claims Act without regard to whether or not—

23 “(1) the President authorizes the Secretary of
24 State to commence the negotiations referred to in
25 subsection (a); and

1 “(2) if the President does authorize the Sec-
2 retary of State to commence such negotiations, the
3 Secretary of State commences such negotiations.

4 **“SEC. 804. RECEIPT AND DETERMINATION OF CLAIMS.**

5 “(a) DETERMINATION OF CLAIMS.—

6 “(1) IN GENERAL.—Subject to paragraph (2),
7 the Commission shall receive and determine in ac-
8 cordance with applicable substantive law, including
9 international law, the validity and amounts of claims
10 by nationals of the United States against Turkey
11 arising on or after July 20, 1974, for the fair rental
12 market value of the use and continued occupation by
13 Turkey of property located in the territory of Cyprus
14 that—

15 “(A) is owned by such nationals under the
16 laws of Cyprus; and

17 “(B) at the time the exclusion from or oc-
18 cupation of the property began, was owned,
19 under the laws of Cyprus, wholly or partially,
20 directly or indirectly, by nationals of the United
21 States.

22 “(2) LIMITATION.—The Commission shall re-
23 duce the value of the fair rental market value deter-
24 mined under paragraph (1) to the extent restoration
25 or adequate compensation for such use and occupa-

1 tion has been made, including all amounts the claim-
2 ant has received from any source on account of the
3 same loss or losses for which the claim is filed.

4 “(b) RIGHTS IN PROPERTY RETAINED.—A claimant
5 shall not be required or deemed, either directly or indi-
6 rectly, to transfer, waive, or otherwise forfeit any right of
7 ownership in or to the property that the claimant owns
8 under the laws of Cyprus as a condition of or as the result
9 of filing a claim under this title, having the claim deter-
10 mined, or accepting an award based on the claim.

11 “(c) SUBMISSION OF CLAIMS.—

12 “(1) REQUIREMENT TO ESTABLISH TIME PE-
13 RIOD.—Not later than 60 days after the date of the
14 enactment of an appropriations Act that makes
15 available funds for payment of administrative ex-
16 penses incurred by the Commission in carrying out
17 this title, the Commission shall establish a period
18 during which claimants may submit claims under
19 this title.

20 “(2) PUBLICATION.—The Commission shall
21 publish the beginning and ending dates of the period
22 referred to in paragraph (1) in the Federal Register.

23 “(3) LENGTH.—The period referred to in para-
24 graph (1) may not be longer than 24 months and
25 shall begin on the last day of the month in which

1 the notice of the period is published under para-
2 graph (2).

3 **“SEC. 805. OWNERSHIP OF CLAIMS.**

4 “A claim may be favorably considered under section
5 804—

6 “(1) only if the property right on which the
7 claim is based was owned, wholly or partially, di-
8 rectly or indirectly, by a national of the United
9 States under the laws of Cyprus on the date on
10 which the exclusion from or occupation of the prop-
11 erty began; and

12 “(2) only to the extent that the claim has been
13 held by one or more nationals of the United States
14 continuously from that date until the date the claim
15 is filed with the Commission.

16 **“SEC. 806. CERTIFICATION; ASSIGNED CLAIMS.**

17 “(a) CERTIFICATION OF CLAIMS.—

18 “(1) CERTIFICATION TO THE CLAIMANT.—The
19 Commission shall certify to each claimant who files
20 a claim under this title—

21 “(A) the amount determined by the Com-
22 mission to be the loss suffered by the claimant
23 which is covered by this title; and

24 “(B) if, on the date on which the certifi-
25 cation under subparagraph (A) is made, Turkey

1 is excluding the claimant from the claimant's
2 property, a mathematical basis determined by
3 the Commission for calculating the loss suffered
4 by the claimant for the continued use and occu-
5 pation of the property by Turkey after the date
6 of the award.

7 “(2) CERTIFICATION TO THE SECRETARY OF
8 STATE.—The Commission shall certify to the Sec-
9 retary of State—

10 “(A) the amount of each claim certified
11 under paragraph (1)(A);

12 “(B) any mathematical basis certified
13 under paragraph (1)(B) in connection with that
14 claim; and

15 “(C) a statement of the evidence relied
16 upon and the reasoning employed in making the
17 Commission's determination of the amount re-
18 ferred to in subparagraph (A) and the mathe-
19 matical basis referred to in subparagraph (B).

20 “(b) ASSIGNED CLAIMS.—In any case in which a
21 claim under this title is assigned by purchase before the
22 Commission determines the amount due on that claim, the
23 amount so determined shall not exceed the amount of ac-
24 tual consideration paid by the last such assignee.

1 **“SEC. 807. CONSOLIDATED AWARDS.**

2 “With respect to any claim under section 804 that,
3 at the time of the award, is vested in persons other than
4 the person by whom the original loss was sustained, the
5 Commission shall issue a consolidated award in favor of
6 all claimants then entitled to the award. The award shall
7 indicate the respective interests of such claimants in the
8 award, and all such claimants shall participate, in propor-
9 tion to their indicated interests, in any payments that may
10 be made under this title in all respects as if the award
11 had been in favor of a single person.

12 **“SEC. 808. CLAIMS FUND.**

13 “(a) **AUTHORITY.**—The Secretary of the Treasury
14 may establish in the Treasury of the United States a
15 Claims Fund for the payment of unsatisfied claims of na-
16 tionals of the United States against Turkey, as authorized
17 by this title.

18 “(b) **CONTRIBUTIONS TO CLAIMS FUND.**—The
19 Claims Fund shall consist of such sums as may be paid
20 to, or realized by, the United States pursuant to the terms
21 of any agreement settling those claims described in section
22 804 that may be entered into between the Governments
23 of the United States and Turkey.

24 “(c) **DEDUCTION FOR ADMINISTRATIVE EX-**
25 **PENSES.**—The Secretary of the Treasury shall deduct
26 from any amounts covered into the Claims Fund an

1 amount equal to 5 percent thereof as reimbursement to
2 the Government of the United States for expenses in-
3 curred by the Commission and by the Department of the
4 Treasury in the administration of this title. The amounts
5 so deducted shall be covered into the Treasury as miscella-
6 neous receipts.

7 **“SEC. 809. AWARD PAYMENT PROCEDURES.**

8 “(a) CERTIFICATION OF AWARDS TO THE SEC-
9 RETARY OF THE TREASURY.—The Commission shall cer-
10 tify to the Secretary of the Treasury, in terms of United
11 States currency, each award made pursuant to section
12 804.

13 “(b) PAYMENT OF AWARDS.—

14 “(1) PRINCIPAL AMOUNTS.—Upon certification
15 of each award made under section 804, the Sec-
16 retary of the Treasury shall, out of the sums covered
17 into the Claims Fund, make payments on account of
18 such awards as follows, and in the following order
19 of priority:

20 “(A) Payment in the amount of \$5,000 or
21 the principal amount of the award (excluding
22 any calculations made under any mathematical
23 basis certified under section 806(a)(1)(B)),
24 whichever is less.

1 “(B) Thereafter, payments from time to
2 time, in ratable proportions, on account of the
3 unpaid balance of the principal amounts of all
4 awards (including any calculations made under
5 any mathematical basis certified under section
6 806(a)(1)(B)) according to the proportions that
7 the unpaid balance of such awards bear to the
8 total amount in the Claims Fund available for
9 distribution at the time such payments are
10 made.

11 “(2) SUBSEQUENT PAYMENTS.—After payment
12 has been made in full of the principal amounts of all
13 awards pursuant to paragraph (1), pro rata pay-
14 ments may be made on account of any interest that
15 may be allowed on such awards.

16 “(c) REGULATIONS.—Payments or applications for
17 payments under subsection (b) shall be made in accord-
18 ance with any regulations the Secretary of the Treasury
19 may prescribe.

20 **“SEC. 810. SETTLEMENT PERIOD.**

21 “The Commission shall complete the settlement of
22 claims under this title not later than 3 years after the
23 final date for the filing of claims as provided in section
24 804(c).

1 **“SEC. 811. TRANSFER OF RECORDS.**

2 “The Secretary of State, the Secretary of the Treas-
3 ury, and the Secretary of Defense shall transfer or other-
4 wise make available to the Commission such records and
5 documents relating to claims described in section 804 as
6 may be required by the Commission in carrying out its
7 functions under this title.

8 **“SEC. 812. FEES FOR SERVICES.**

9 “(a) **LIMITATION ON FEES.—**

10 “(1) **LIMITATION.—**No remuneration on ac-
11 count of services rendered on behalf of any claimant,
12 in connection with any claim filed with the Commis-
13 sion under this title, may exceed 10 percent of the
14 total amount paid pursuant to an award certified
15 under the provisions of this title on account of such
16 claim.

17 “(2) **NOTIFICATION OF AGREEMENTS.—**Any
18 agreement contrary to the limitation set forth in
19 paragraph (1) shall be unlawful and void.

20 “(b) **PENALTY FOR VIOLATION.—**Whoever, in the
21 United States or elsewhere, demands or receives, on ac-
22 count of services rendered to which subsection (a)(1) ap-
23 plies, any remuneration in excess of the maximum per-
24 mitted by subsection (a), shall be fined not more than
25 \$5,000, or imprisoned not more than 12 months, or both.

1 **“SEC. 813. APPLICATION OF OTHER PROVISIONS.**

2 “(a) IN GENERAL.—

3 “(1) PROVISIONS.—To the extent they are not
4 inconsistent with the provisions of this title, the fol-
5 lowing provisions of title I of this Act shall apply to
6 this title:

7 “(A) Subsections (b), (c), (d), (e), and (h)
8 of section 4 (22 U.S.C. 1623 (b), (c), (d), (e),
9 and (h)).

10 “(B) Subsections (c), (d), (e), and (f) of
11 section 7 (22 U.S.C. 1626 (c), (d), (e), and (f)).

12 “(2) REFERENCE.—Any reference to ‘this title’
13 in the provisions described in subparagraph (A) or
14 (B) of paragraph (1) shall be deemed to be a ref-
15 erence to such provisions and to this title.

16 “(b) APPLICABILITY OF ADMINISTRATIVE PROCE-
17 DURE.—Except as otherwise provided in this title and in
18 the provisions of title I referred to in subparagraph (A)
19 or (B) of subsection (a)(1), the Commission shall comply
20 with the provisions of subchapter II of chapter 5, and the
21 provisions of chapter 7, of title 5, United States Code.

22 **“SEC. 814. AUTHORIZATION OF APPROPRIATIONS.**

23 “(a) IN GENERAL.—There are authorized to be ap-
24 propriated for any fiscal year beginning on or after Octo-
25 ber 1, 2007, such sums as may be necessary to enable
26 the Commission and the Secretary of the Treasury to pay

1 their respective administrative expenses incurred in car-
 2 rying out their functions under this title.

3 “(b) AVAILABILITY OF FUNDS.—Amounts appro-
 4 priated pursuant to the authorization of appropriations in
 5 subsection (a) may remain available until expended.”.

6 **SEC. 3. JURISDICTION OF UNITED STATES DISTRICT**
 7 **COURTS.**

8 (a) IN GENERAL.—Chapter 85 of title 28, United
 9 States Code, is amended by adding at the end the fol-
 10 lowing new section:

11 **“§ 1370. Civil actions against private persons by na-**
 12 **tionals of the United States who own real**
 13 **property in Cyprus**

14 “(a) JURISDICTION.—

15 “(1) IN GENERAL.—The district courts shall
 16 have original jurisdiction of any covered civil action
 17 brought by a national of the United States—

18 “(A) who holds title to any property under
 19 the laws of Cyprus that is located in that por-
 20 tion of the territory of Cyprus that is occupied
 21 by Turkey as the result of the invasion of Cy-
 22 prus by Turkey on July 20, 1974; and

23 “(B) who has been excluded from the
 24 property by reason of such occupation.

1 “(2) RECOVERY.—In a covered civil action, a
2 national of the United States may recover the fair
3 rental value of the property that is the subject of
4 such action during the period of use, or occupation
5 of, or benefit from, such property.

6 “(b) SPECIAL RULES.—In any covered civil action
7 brought under this section—

8 “(1) process shall be deemed served if service is
9 accomplished in any manner provided under this
10 title;

11 “(2) the district court shall not consider the
12 doctrine of forum non conveniens and shall refuse to
13 hear any motion or request by any person or party
14 that the covered civil action be dismissed on the
15 grounds of forum non conveniens;

16 “(3) in determining whether the person or
17 party asserting the covered civil action has lawful
18 title, the district court shall apply only the laws of
19 Cyprus;

20 “(4) in determining the amount of any award
21 in the covered civil action, the district court shall
22 consider only evidence of the fair rental market
23 value of the property for the period of occupation,
24 use, or benefit by the person against whom the ac-
25 tion is brought, as that value would have been cal-

1 culated in Cyprus if the plaintiff had not been ex-
2 cluded from the property; and

3 “(5) the district court shall deduct the amount
4 of any award paid to the plaintiff under title VIII
5 of the International Claims Settlement Act of 1949,
6 or the amount of any judgment for the plaintiff
7 under section 5 of the American-Owned Property in
8 Occupied Cyprus Claims Act, on account of the
9 same use, occupation, or benefit that is the basis of
10 the covered civil action under this section.

11 “(c) LIMITATION OF ACTION.—Any covered civil ac-
12 tion against a private person under this section may not
13 be brought later than 36 months after the last day of the
14 month in which the private person ceases to use, occupy,
15 or benefit from the property. This subsection applies in
16 lieu of section 1658.

17 “(d) DEFINITIONS.—As used in this section—

18 “(1) the term ‘covered civil action’ means a civil
19 action against any private person who for any pur-
20 pose and in any way uses, occupies, or benefits from
21 property described in subsection (a)(1)(A) at any
22 time during the period of the exclusion described in
23 subsection (a)(1)(B);

24 “(2) the term ‘Cyprus’ means the Republic of
25 Cyprus;

1 “(3) the term ‘national of the United States’
2 means—

3 “(A) a natural person who is a citizen of
4 the United States; and

5 “(B) a corporation or other legal entity
6 that is organized under the laws of the United
7 States or of any State, the District of Colum-
8 bia, or the Commonwealth of Puerto Rico, if
9 natural persons who are citizens of the United
10 States own, directly or indirectly, 50 percent or
11 more of the outstanding capital stock or other
12 beneficial interest of such corporation or entity;

13 “(4) the term ‘private person’ means any nat-
14 ural person or legal entity other than Turkey;

15 “(5) the term ‘property’ means any real prop-
16 erty or any right or interest in any real property, in-
17 cluding any lease to which a national of the United
18 States holds title under the laws of Cyprus; and

19 “(6) the term ‘Turkey’ means—

20 “(A) the Republic of Turkey;

21 “(B) any agent of the Government of Tur-
22 key, or any unincorporated association that
23 purports to discharge any function of a nation-
24 state under the auspices of the Government of
25 Turkey, including the unincorporated associa-

1 tion known as the ‘Turkish Republic of North-
2 ern Cyprus’;

3 “(C) any political subdivision, agency, or
4 instrumentality of the Republic of Turkey, in-
5 cluding the Turkish Armed Forces; and

6 “(D) any organization that purports to be
7 a political subdivision, agency, or instrumen-
8 tality of the unincorporated association known
9 as the ‘Turkish Republic of Northern Cyprus’.”.

10 (b) CONFORMING AMENDMENT.—The table of sec-
11 tions for chapter 85 of title 28, United States Code, is
12 amended by adding at the end the following new item:

 “1370. Civil actions against private persons by nationals of the United States
 who own real property in Cyprus.”.

13 **SEC. 4. VENUE.**

14 (a) IN GENERAL.—Chapter 87 of title 28, United
15 States Code, is amended by adding at the end the fol-
16 lowing new section:

17 **“§ 1414. Venue of civil actions against private persons**
18 **brought by nationals of the United States**
19 **who own real property in Cyprus**

20 “A covered civil action under section 1370 may be
21 brought only in the United States District Court for the
22 District of Columbia and the United States District Court
23 for the Southern District of New York.”.

1 (b) CONFORMING AMENDMENT.—The table of sec-
2 tions for chapter 87 of title 28, United States Code, is
3 amended by adding at the end the following new item:

“1414. Venue of civil actions against private persons brought by nationals of
the United States who own real property in Cyprus.”.

4 **SEC. 5. ACTION AGAINST THE GOVERNMENT OF TURKEY.**

5 (a) JURISDICTION OF UNITED STATES COURTS.—
6 The Government of Turkey shall not be immune from the
7 jurisdiction of the courts of the United States or of the
8 States in any case in which—

9 (1) rights in property of a national of the
10 United States that is occupied by the Government of
11 Turkey in violation of international law are in issue;
12 and

13 (2) that property or any property exchanged for
14 such property—

15 (A) is present in the United States in con-
16 nection with a commercial activity carried on by
17 the Government of Turkey in the United
18 States; or

19 (B) is owned or operated by an agency or
20 instrumentality of the Government of Turkey
21 and that agency or instrumentality—

22 (i) is engaged in a commercial activity
23 in the United States; or

1 (ii) purchases or otherwise acquires
2 any good or service for which the approval,
3 authorization, or consent of the United
4 States is required by law, by the President,
5 or by any department, agency, or instru-
6 mentality of the United States Govern-
7 ment.

8 (b) APPLICABILITY OF AND RELATIONSHIP TO FOR-
9 EIGN SOVEREIGN IMMUNITIES ACT.—

10 (1) APPLICABILITY.—The provisions of chapter
11 97 of title 28, United States Code, apply to a civil
12 action brought under subsection (a) as if the action
13 were brought under such chapter.

14 (2) ASSERTION OF INDEPENDENT JURISDIC-
15 TION.—The jurisdiction conferred by subsection (a)
16 is in addition to any jurisdiction conferred by chap-
17 ter 97 of title 28, United States Code.

18 (c) DEDUCTIONS OF OTHER AWARDS.—In any action
19 brought under subsection (a), the court shall deduct from
20 the amount of any judgment the amount of any award
21 paid to the plaintiff under title VIII of the International
22 Claims Settlement Act of 1949, or the amount of any
23 judgment for the plaintiff under section 1370 of title 28,
24 United States Code, on account of the same subject mat-
25 ter that is the basis of the action under this section.

1 (d) DEFINITIONS.—In this section—

2 (1) the term “Government of Turkey” includes
3 all the entities described in subparagraphs (B), (C),
4 and (D) of section 802(7) of the International
5 Claims Settlement Act of 1949;

6 (2) the term “agency or instrumentality of the
7 Government of Turkey” means any of the entities
8 described in subparagraphs (B), (C), and (D) of sec-
9 tion 802(7) of the International Claims Settlement
10 Act of 1949;

11 (3) the term “court of the United States” has
12 the meaning given that term in section 451 of title
13 28, United States Code;

14 (4) the terms “national of the United States”
15 and “property” have the meanings given those terms
16 in section 802 of the International Claims Settle-
17 ment Act of 1949; and

18 (5) the term “State” means each of the several
19 States, the District of Columbia, and any common-
20 wealth territory or possession of the United States.

21 **SEC. 6. EFFECTIVE DATE.**

22 This Act and the amendments made by this Act shall
23 take effect on the date of the enactment of this Act.

○